IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

RPFC.No. 28 of 2003()

MC.142/2002 of FAMILY COURT, MANJERI

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REVISION PETITIONER/RESPONDENT

KURIKKAL MOIDEEN, MANCHERI HOUSE,
AGED 58 YEARS, S/O. UNNEEN, P.O.KALIKAVU,
NILAMBUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: PETITIONER

JAMEELA, AGED 31 YEARS
D/O. MUHAMMED, VANTHODAN HOUSE,
PULLANGODE P.O., NILAMBUR TALUK,
MALAPPURAM DISTRICT.

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

R.P.(FC)NO.28 OF 2003

Dated this the 18th day of October, 2007

ORDER

The revision petitioner is the respondent in M.C.No.142/02 filed by the respondent/wife vide Section 125 Crl.P.C. and under orders to pay maintenance at the rate of Rs.400/- per month from the date of the petition.

2. It is the case of the revision petitioner that he is quite aged i.e., 67 years and that he is having no means and that the son of the respondent is also maintained by him. He has also produced Exts. D1 and D2 discharge summaries which would show that he is suffering from various ailments like diabetes, hypertension etc. It is also stated that he is not having any property in his name.

3. The case of the petitioner in M.C. was that she got married to the revision petitioner 17 years ago and a male child was born in the wedlock. It is alleged that the respondent had appropriated gold ornaments and cash given to her at the time of

marriage and that she was severely ill treated. It is alleged that after the petitioner was taken to her house for delivery, the respondent brought the first wife and children to the house and that the petitioner was not taken back after delivery. She was forced to live along with the first wife and children who ill treated her. It is also alleged that one acre of property belonging to her was made to sell and the sale proceeds were appropriated by the revision petitioner. It is alleged that on 12.3.2003, the first wife and the children came to the house belonging to the respondent situated at Adakkakundu and assaulted the petitioner. She had to be admitted at P.H.C., Kalikavu. The respondent/revision petitioner had got 12 acres of cultivated land from which he is getting Rs.35,000/- per month. He is getting annual income of Rs.2,00,000/- from his arecanut trade and he is getting Rs.2,000/- per month as rent from his building and that he is having two jeeps. The petitioner is not having any job or income. She had claimed maintenance at the rate of Rs.1,500/- per month. On the other hand, the revision

petitioner had denied the allegations except admitting the fact of marriage. It is mentioned that the petitioner and her family were very poor and that they are not in a position to give any ornament or cash at the time of marriage. It is alleged that the petitioner was residing with him in the property belonging to him. It is denied that she was forced to live along with the first wife and children. The property in the name of the petitioner was purchased by the respondent/revision petitioner and the above property was sold by the father of the petitioner without consulting him. He has denied that the petitioner was ill treated by his first wife and children. According to him, he had spent Rs.1,75,000/- for sending the petitioner’s brother's son abroad. According to him, the petitioner was taken away from his house without his knowledge. She got admitted in the Primary Health Centre on false pretext. It is also stated that he is suffering from blood pressure, diabetes and that he is not having any income.

4. The evidence adduced in the matter consisted of the testimony of PW1, Ext. P1, RW1 and Exts. D1 to D4.

5. I find that it stands not disputed that right now the revision petitioner is aged 67 years and the son born out of the wedlock is living with the revision petitioner. There is no objective evidence as to the income of the revision petitioner. All the same, it has come out that he has married at least thrice, although according to her he has married five times. It is admitted that he is not maintaining the respondent wife. In the circumstances and considering the age and ailments of the revision petitioner, the amount ordered to be paid as maintenance is reduced to Rs.250/- per month which he will have to be paid from the date of petition. The revision petitioner is granted two months' time to remit the arrears of maintenance.

The revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl